

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GABRIEL ECKARD,

Plaintiff,

Case No. 2:18-cv-00964-JCC-BAT

V.

MECHELLE WOODS, et al.,

### Defendants.

## **ORDER DENYING MOTION TO APPOINT COUNSEL**

Plaintiff Gabriel Eckard, proceeding *pro se* and *in forma pauperis*, is a former Washington Department of Corrections (DOC) inmate who has filed a 42 U.S.C. § 1983 civil rights action against several DOC officials and employees. Dkt. 7. Plaintiff is currently incarcerated in the Snohomish County Jail as a pretrial detainee on criminal charges in Snohomish County. Mr. Eckard now seeks Court appointed counsel. Dkt. 13. For the following reasons, the Court **DENIES** his motion.<sup>1</sup>

Generally, a person has no right to counsel in a civil action. *See Campbell v. Burt*, 141 F.3d 927, 931 (9th Cir. 1998). The Court may appoint counsel for indigent civil litigants under 28 U.S.C. § 1915(e)(1), but only under “exceptional circumstances.” *Agyeman v. Corrections*

<sup>1</sup> Alternatively, Plaintiff asks the Court to order the Snohomish County Sheriff and Snohomish County Jail Chief to provide him with library access. However, the Court does not have jurisdiction over individuals who are not parties to this lawsuit.

1     *Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004). When determining whether “exceptional  
2 circumstances” exist, the Court considers “the likelihood of success on the merits as well as the  
3 ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues  
4 involved.” *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).

5                 Mr. Eckard maintains the Court should appoint counsel for him because he cannot afford  
6 to hire counsel, his detention will greatly limit his ability to litigate, the issues involved are  
7 complex and will require significant research and investigation, he has limited access to the law  
8 library and limited knowledge of the law, counsel will be better able to present his case at trial,  
9 and he is disabled and his “disability affects his ability to do the work involved in this case.” Dkt.  
10 13, p. 2. He states he has a “somatisation disorder which makes it physically and painfully  
11 difficult to do the physical work involved” and which causes “cognitive impairment as well.” *Id.*  
12 Mr. Eckard also states that during his transfer to the Snohomish County Jail, he was unable to  
13 bring his legal materials and he does not have a copy of his complaint. *Id.*, pp. 1-2. In response to  
14 Mr. Eckard’s claim that he is without his legal documents, Defendants sent Mr. Eckard copies of  
15 his complaint (Dkt. 7) Defendant’s Answer and Affirmative Defenses (Dkt. 11), and the Court’s  
16 October 5, 2018 Scheduling Order (Dkt. 12). Dkt. 14.

17                 Mr. Eckard has not demonstrated the existence of “exceptional circumstances” to support  
18 his request for appointment of counsel. Both his complaint and the instant motion demonstrate  
19 his ability to articulate his claims *pro se* in light of the complexity of the legal issues involved.  
20 Mr. Eckard’s claimed disability has not impaired his ability to articulate his claims thus far and,  
21 without further medical information, the Court is not able to assess how Mr. Eckard’s medical  
22 condition may affect his abilities to litigate this case. Mr. Eckard’s complaints regarding limited  
23 access to the law library and limited knowledge of the law are not exceptional circumstances as

1 he fails to show how this places him in a position any different from other *pro se* prisoner  
2 plaintiffs.

3 In addition, this is not a complex case involving complex facts or law as the case involves  
4 the question of whether defendants failed to properly respond to Mr. Eckard's request for outside  
5 yard and cleaning supplies. Dkt. 7. Moreover, Mr. Eckard has made no attempt to demonstrate  
6 that his complaint has merit.

7 Appointment of counsel is therefore not justified at this time, and the Court **DENIES** the  
8 motion (Dkt. 13). The Clerk shall provide a copy of this Order to plaintiff and counsel for  
9 defendants.

10 DATED this 14th day of December, 2018.

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13 BRIAN A. TSUCHIDA  
14 Chief United States Magistrate Judge  
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